

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, February 21, 2001, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Russ Bayer, Jon Carlson, Steve Duvall, Gerry Krieser, Greg Schwinn, Cecil Steward and Tommy Taylor; (Linda Hunter and Patte Newman absent); Kathleen Sellman, Jennifer Dam, Jason Reynolds, Kay Liang, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Russ Bayer called the meeting to order and requested a motion approving the minutes for the meeting held February 7, 2001. Motion to approve made by Duvall, seconded by Krieser and carried 5-0: Bayer, Duvall, Krieser, Schwinn and Taylor voting 'yes'; Steward abstaining; Carlson, Hunter and Newman absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

February 21, 2001

Members present: Bayer, Duvall, Krieser, Schwinn, Steward and Taylor; Carlson, Hunter and Newman absent.

The Consent agenda consisted of the following items: **SPECIAL PERMIT NO. 1897, SPECIAL PERMIT NO. 1899, MISCELLANEOUS NO. 00013 and MISCELLANEOUS NO. 00014.**

Steward moved to approve the Consent Agenda, seconded by Duvall and carried 6-0: Bayer, Duvall, Krieser, Schwinn, Steward and Taylor voting 'yes'; Carlson, Hunter and Newman absent.

Note: This is final action on Special Permit No. 1897, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

SPECIAL PERMIT NO. 1896
FOR A SALVAGE YARD ON
PROPERTY GENERALLY LOCATED
AT NO. 1ST STREET AND CHARLESTON STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 21, 2001

Members present: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer; Hunter and Newman absent.

Planning staff recommendation: Conditional approval.

Proponents

1. **Mark Hunzeker** appeared on behalf of the applicant, **Heartland Insurance Pool, Inc.** This is an application for a "salvage yard" only because the nature of the business defines it as such. This is not a business which removes parts from vehicles or sells used parts of vehicles, or does any of the other things associated with a salvage yard. This is a business which accepts consigned vehicles from insurance companies for sale. Essentially, this is an auto auction business dealing with vehicles which have either been wrecked, flooded or stolen and recovered by insurance companies. These vehicles are placed at auction for people who will eventually part them out or rebuild or restore them to operating condition. It is not a salvage yard in the sense that they are gathering vehicles for the purpose of removing and selling individual parts. It is a true auction situation. The vehicles will be stored on this site for as much as 30-60 days, with periodic auctions where people will come to the site, bid on the vehicles and remove them the day of the auction.

Hunzeker clarified that the proposed location is immediately abutting the west boundary of the City's impound lot, so it is in the area west of Sun Valley Blvd. and west of the City's new impound lot.

With regard to the conditions of approval, Hunzeker referred to Condition #2.1.2, which requires that the applicant identify a 100' wide buffer along the eastern edge of the permit area in which no salvage material may be stored outside buildings. That is the area immediately abutting the city's impound lot. He knows of no reason they should need to identify a 100' setback from the city's impound lot where they could not store vehicles. Hunzeker requested that Condition #2.1.2 be deleted.

Hunzeker submitted that Condition #2.1.12 imposes a fairly onerous and unfair burden on this site. The applicant identified on the application what they believe is the accurate future alignment of Sun Valley Blvd. Sun Valley Blvd. happens to be US Hwy 6. Under the existing regulations there is a requirement that salvage yards be set back 500' from various locations within the City, all identified as being within a fairly close proximity of

entry corridor highways. U.S. 6 is going to be rebuilt, and the reason it is going to be moved to run along the east side of this property is that it reduces the cost of doing so to avoid construction of some bridges. The proposed relocation of Sun Valley Blvd. at this time, subject to change, was shown by Hunzeker on the map. They have identified the corridor as 300' on either side by the Dept. of Roads, but if this applicant is required to impose a 500' setback from the future alignment of Sun Valley Blvd., it destroys 1/3 of the site. They should be able to comply with the existing regulations, which would allow them to locate "in this area" and next to the existing city impound lot. At such time as the city or state, or both, determine to relocate Sun Valley Blvd., they will do so knowing what is already there and it will not completely destroy the proposed use by requiring this condition.

Hunzeker observed that to the extent there are wetlands on the site, they are on the western portion of the site. They have not proposed to immediately utilize that portion of the site and hope not to have to use that portion of the site.

Hunzeker submitted that this proposed use is compatible with the existing city impound lot. He requested that Condition #2.1.12 be deleted.

Hunzeker also requested that Condition #2.1.1 which talks about correcting the Sun Valley Blvd. alignment, be deleted because the information which the applicant used is more current than that which was used to prepare the staff report.

Steward asked Hunzeker to explain the compelling advantages for this location. Hunzeker's response was that one of the most compelling advantages is that a large number of the vehicles which eventually will be sold on this site will be moved from the city impound lot to this property. Vehicles involved in accidents are often towed to the city impound lot where they are then evaluated by insurance adjusters, etc. As soon as the insurance company takes title, the vehicles are taken to the auction site. Proximity to the impound lot is a great advantage. It prevents a lot of vehicles, i.e. tow trucks moving disabled or otherwise insurance company owned vehicles, from traveling the streets of Lincoln. It is also advantageous since this is an area that is in the floodplain. To the extent we have concerns about fill and utilizing areas in the floodplain, this proposal represents an almost nil increase in the amount of fill. The only area proposed for fill is the area for the small building which will operate as a headquarters on a 24-acre site. This applicant will use the same sort of anchoring mechanism that the impound lot has used to make sure nothing floats away in the event of a 100-yr. storm. The property is zoned industrial. Removal of fill from this area is problematic and digging footings, etc. may be a problem in that this is an old city landfill. Using a site like this in this fashion has a lot of advantages. This is a use that is absolutely necessary.

With regard to the realignment of Sun Valley Blvd., Duvall wondered whether it is known where the City impound lot would be moved. Hunzeker was not certain. He suggested

that the Purchasing Agent would know. However, Hunzeker would guess that it will probably be located to the south of this property. Duvall asked whether this applicant assumes that it would still border the impound lot. Hunzeker stated that it is assumed that the impound lot will try to stay close to where it is located now.

If this permit is granted, Steward pondered what there is to keep this owner or someone else with similar automotive business relationships from turning this into a more undesirable salvage yard operation. Hunzeker believes the Condition #2.1.10 takes care of this concern. It is to be noted on the plan that it is a "salvage yard for the storage and sale of non-operating or wrecked vehicles". This at least infers that they will not disassemble and sell parts.

Carlson inquired about the fencing. Hunzeker stated that there will be a solid metal permanent fence, 6' in height. Since they are not stacking vehicles, this should be adequate.

Bayer inquired about the protection corridor map. Hunzeker clarified that the 300' r.o.w. on both sides is a distance on either side of a line that the Department of Roads has defined as a protection corridor which prevents building permits within that area. The applicant has revised its plan to move the building outside of that 300'. Vehicles could park in that area, but they could not get a building permit to construct a building in that area. Bayer inquired whether the city has to follow the same standard as a private citizen with regard to building within that 300'. Hunzeker would guess probably not. Hunzeker believes the impound lot building might possibly stay where it is now. It all depends on the location of the right-of-way for the new alignment of Sun Valley Blvd.

Bayer understands the desire to not have the 100' buffer on the eastern edge with the rationale being the city impound lot. But he is less comfortable if the city impound lot moves. Hunzeker reiterated that it will all be fenced. Hunzeker believes the 100' is generally a requirement which applies to a residential zoning district. Bayer has an entryway corridor concept going on in his mind.

Opposition

1. Ted Vrana, attorney and retired Judge, appeared on behalf of **Ace Financial Services** in opposition. Ace Financial has a contract pending with an organization that plans to build a large, extensive student housing complex in the area with an expenditure of approximately 12 million dollars. If this permit is granted, it will be an eyesore and it will inhibit further development of the area. It might even affect the baseball stadium visitors. The property to which Vrana refers is the Dr. White property immediately west of the proposal.

2. Mike Grieger, 2645 Van Dorn Street, testified in opposition. He is outraged. Hunzeker has represented Ace Financial in the past in order to bring the 12 million dollar project to Nebraska. The soil is contaminated and the salt water is contaminated, so Ace Financial is trying to clean this land up to bring student housing and improvement to the property. The baseball field is right there, representing 32 million dollars of the city's money; the football stadium is there with a beautiful sky line. Do we want to see the glare of junked cars and cracked windshields? Ace Financial has money in escrow; they are trying to meet the requirements to clean this land up for upscale student housing. This proposal is at the front door of the baseball stadium.

There are 33 acres between this proposed site and the race track. The methane gas field is in the area of this application. The route to get to the housing would be 1st & Charleston. Taylor confirmed with Grieger that the proposed salvage yard will be between the stadium and the proposed housing area. Grieger concurred.

Carlson asked whether Grieger had the same objection to the city impound lot. Grieger's response was, "yes, we did, but we had no control over it." Grieger is opposed to having more of what's there and the city is going to have to move some of it anyway. In order for the city to maintain their schedule to build the baseball park, they slammed the impound lot in there, even though the City was given the opportunity to purchase some of the White property.

Grieger further advised that Environmental Associates has done the study on the soil contamination. We do not need any more contamination with the wrecked cars leaking, etc. They are junk cars.

Staff questions

Schwinn inquired about the Sun Valley Blvd. realignment. Jason Reynolds of Planning staff advised that he did not find it in the one and six-year CIP. It is not programmed at this time, but it is in the 1-25 year plan.

Bayer expressed his frustration that the standards are always different for governmental entities than private entities. Would staff impose the same 500' right-of-way condition with no salvage material or buildings for the city impound lot? Reynolds explained that the impound lot is located on P zoning, which does not require a special permit. The ordinance provides that salvage material outside a building shall be 500' from one of the corridors identified, Hwy 6. It also provides that salvage material kept outside a building must be 100' from the boundaries of the I-1 zoning district. That condition can be waived by City Council but cannot be deleted by Planning Commission. In other words, Bayer suggested that we don't impose the same standards on governmental entities. Reynolds reiterated that P public use zoning does not have the specific requirements. The City Council may decrease the setback requirement if they find sufficient justification; however,

the applicant did not request that modification at the time of application.

Carlson wanted to know the intention behind the footages that staff is recommending. Reynolds read from the ordinance, which appears to indicate that these setbacks relate to entrance corridors to the City, and Hwy 6 is one such corridor.

Bayer asked the Law Department whether the Commission has authority to delete Condition #2.1.12. Rick Peo of the City Law Department advised that the 500' within the present existing corridor cannot be waived. The future alignment is an add-on. The city is desiring to preserve the corridor if the road should change, but it is not in the mandatory list. The existing corridor has to be 500' and it is non-waivable.

Bayer asked whether the Commission can delete Condition #2.1.2, the 100' buffer along the eastern edge of the permit area. Peo believes that is the mandatory provision that Council reserved the right to modify by waiver. That would not be Planning Commission authority. The applicant did not request this waiver.

The City Purchasing Department has responsibility for the impound lot. Steward wanted to know whether the city knew of the possibility of this highway alignment when the permit for the impound lot was proposed. Dennis Bartels, Public Works, believes the Comprehensive Plan had identified a new Sun Valley/1st Street alignment in some manner in the future road network. Bartels advised that the realignment is a State project and is not a city project. He does not believe there will be any city funding in the project. That wide corridor was not in existence when the baseball project went through. Bartels remembers the discussion at the time was that the impound lot building could remain. At that point in time, our potential routes were west of that building, but the fenced area where they store the cars might have to be realigned.

Steward inquired about the floodplain boundaries in this general vicinity including the property to the west that has been discussed for student housing. Bartels stated that the entire piece of property is in the floodplain. There may be isolated islands, but generally the whole area is in the floodplain.

Response by the Applicant

Hunzeker does not believe he said, and he did not intend to say, that all the vehicles from the impound lot will go to this location, but there is a substantial volume of the vehicles brought to the auto auction that come from the impound lot. It is an advantage for this type of operation to be located close to the city's impound lot.

With respect to Condition #2.1.12, Hunzeker believes he heard Peo say that it is not possible to waive that condition as to the existing Sun Valley Blvd. From that perspective, Hunzeker suggested that it is not necessary to say that you have to be set back 500'.

With regard to the 100' setback in Condition #2.1.2, Hunzeker purports that it is a setback that is intended to be from the edge of the I-1 zoning district boundary. That restriction was not intended to require a setback from a public use impound lot; however, he has talked with Law and because it was not published as a specific waiver, the Planning Commission probably cannot do anything about Condition #2.1.2, even in the way of a recommendation to the City Council. However, since they can park in that area, they can adjust the operation to accommodate that 100' setback and use it for customer parking and for transport vehicles awaiting delivery.

With respect to Grieger's comments, Hunzeker acknowledged that he represented Mr. Grieger's partner and a buyer who intended to do student housing on a portion of the property to the west in the past; however, the client he represented is no longer interested in the site. Hunzeker is not sure what the elevations are but he believes most of the land, particularly to the west, is several feet below flood elevation and would require substantial manipulation of the site. He understands that there is another entity interested in potentially developing student housing.

Hunzeker submitted that the proposed site for the salvage operation is a very difficult site to utilize for any purpose that involves penetrating the cap on the old city landfill which lies beneath the surface. It may cause some interesting construction problems with the relocation of Hwy 6, but he understands that the city's impound lot is intended to stay there. In fact, the posts required to tie down the impounded vehicles are made of wood on the area to the east side of the impound lot because there was no point in wasting the money to put concrete in the area they knew would be lost when Hwy 6 is relocated. The city knew they would have to alter the operation when Hwy 6 was relocated.

Hunzeker believes this is a good use for this site and it is not only necessary, but socially beneficial, and one that is hard to locate almost anywhere.

Carlson sought clarification of the type of vehicles that will be located at the salvage yard site. Hunzeker stated that it will be vehicles which are stolen, flooded, or primarily wrecked, which have been appraised by insurance adjusters with a value being less than cost of repair. The total loss is paid to the owner in exchange for assignment of title; at that point the vehicle is consigned to this operation for the purpose of auctioning off the remains of the vehicle, or the entire vehicle in case of theft. It would be primarily wrecked vehicles, but there would be no parts removed, etc.—no disassembly and no storage. The vehicles will be parked in orderly rows to be inspected and would be moved prior to auction to an area where it is convenient to have the auction and load them on transport vehicles--then they go away. The vehicles might be there 30-60 days. There will be no

long term storage, but there will from time to time be a fairly substantial number of wrecked vehicles on the site.

Bayer would guess that not every car gets bought. Then what happens to the vehicles? The owner of Heartland Insurance Pool, Inc. stated that every car will sell at every sale. One way or another there will be a salvage yard that will buy it. He advised that Heartland only sells to licensed dealers or businesses—the auctions are not for the general public. The business is currently located at 21st & Yolande and has been there for about 4-5 years. The insurance business is getting bigger and they do not have enough property to store the cars at the current location. They also need off-street parking for the auctions.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 21, 2001

Steward moved to deny, seconded by Carlson.

Steward believes that “one bad decision doesn’t deserve a second bad decision.” He was opposed to the city impound lot at this location when it happened; it now seems that we did not get the full information that was available at that time; the potential relocation of this roadway makes both operations problematic; a 6' fence will not matter because travelers going up and over the overpass on I-180 will look right down into this area. It is a part of the entryway visual corridor. He also believes that when the baseball stadium was proposed, the way the road work cuts this up and the way the floodplain affects this site, that a recreational activity was about the only legitimate use that should be in there to begin with. Steward would not be any more in favor of any other use, but it certainly is going to be a visual eyesore in this particular location where you are trying to draw foot traffic from the Haymarket into this area. This is a really, really bad decision if it is approved.

Carlson stated that he is very sympathetic to a local business wanting to expand, but he was also uncomfortable with the siting of the impound lot.

Motion to deny carried 5-2: Krieser, Carlson, Steward. Taylor and Schwinn voting ‘yes’; Bayer and Duvall voting ‘no’; Hunter and Newman absent.

Note: This is final action by the Planning Commission, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by Planning Commission.

ANNEXATION NO. 00006;
CHANGE OF ZONE NO. 3255
FROM AG AGRICULTURAL TO O-3 OFFICE
PARK, B-2 PLANNED NEIGHBORHOOD BUSINESS,
R-3 RESIDENTIAL AND R-4 RESIDENTIAL;
SPECIAL PERMIT NO. 1839, MORNING GLORY
ESTATES COMMUNITY UNIT PLAN;
USE PERMIT NO. 128;
and
PRELIMINARY PLAT NO. 00011,
MORNING GLORY ESTATES,
ON PROPERTY GENERALLY LOCATED
AT NO. 84TH & HOLDREGE STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 21, 2001

Members present: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer; Hunter and Newman absent.

Planning staff recommendation: Approval of the annexation and change of zone, and conditional approval of the community unit plan, use permit and preliminary plat.

Proponents

1. Mark Hunzeker appeared on behalf of the applicant. He has discussed the report with the staff and believes there needs to be further discussion with staff. Hunzeker requested a two-week deferral to resolve several issues. He believes there may have been some miscommunications and there is at least one issue that did not come up in the previous meetings.

Schwinn moved to defer two weeks, with continued public hearing and administrative action scheduled for March 7, 2001, seconded by Carlson and carried 7-0: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer voting 'yes'; Hunter and Newman absent.

2. Mike Rierden appeared on behalf of the **Jehovah's Witnesses**. There are a couple of issues they are concerned about and will be talking with the applicant in the next two weeks. The Jehovah's Witnesses sold the property to this applicant and supports the project, but there are some issues that need further discussion and negotiation. Rierden is not sure two weeks is sufficient so they may request an additional deferral in two weeks if the issues are not resolved.

There was no testimony in opposition.

CHANGE OF ZONE NO. 3238
FROM AGR AGRICULTURAL RESIDENTIAL
TO R-1 RESIDENTIAL
and
PRELIMINARY PLAT NO. 00001,
HAWKSWOOD ESTATES.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION
UPON RESUBMITTAL:

February 21, 2001

Members present: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer; Hunter and Newman absent.

Planning staff recommendation: Approval of the change of zone and conditional approval of the revised preliminary plat.

Jennifer Dam of Planning staff submitted a letter from Zane Fairchild dated November 22, 2000, indicating that he is listed as one of the property owners and developers; however, this was without his knowledge or approval. Dam pointed out the Fairchild property on the map. Any changes to remove the Fairchild property from this plat would require significant changes that would need to be resubmitted and reviewed by the staff. Therefore, the staff is requesting an 8 week deferral. Dam clarified that the Fairchild Estates preliminary plat has been approved. There is an outlot of Fairchild Estates that is included within this preliminary plat as part of two of the proposed lots in Hawkswood Estates.

Proponents

1. Kent Seacrest requested to testify prior to the Commission taking action on the staff request for an 8-week deferral. Seacrest appeared on behalf of a coalition of six property owners (formerly 7 property owners with Fairchild having gone a separate way). This development was before the Commission in October of last year, four months ago, with two outstanding issues, one being the access issue raised by Fairchild. Seacrest indicated that they have been working on this issue. There are people trying to close real estate sales out here and it is problematic to have an eight-week delay. Because of the access issue, they resubmitted this plat.

Seacrest submitted that this is one of those unique neighborhoods full of trees and 5-acre acreages. In 1994, the Comprehensive Plan was amended to create a new category called "low density residential" to be inside the city limits. As Lincoln has grown to the south and east, we have all those acreages "in the way". In 1994, we figured out that we had to address that in order to absorb acreages into the city, so we created the "low density residential" at one acre with city water and city sewer. Then Planning Director, Tim

Stewart, thought he would do a new zoning classification for “low density residential”. But, that has not occurred and developers have had to do this through waivers because we do not have that zoning classification. This really should be known as AGR-1. We’re taking a square peg and putting it through a round hole and have protective covenants that have been executed for one-acre size with clustering in order to protect the tree masses.

Seacrest noted that there are four different transportation issues. Staff, because they don’t have AGR-1, has to look at this as if it is urbanized in the future. They want more road network than we want.

Seacrest submitted a motion to amend:

He requested a new Condition #1.1.1 as follows: Pursuant to the Fire Department request, provide fire hydrants pursuant to the City of Lincoln’s Design Standards and add a note stating that the applicant understands and agrees to limit parking to only one side of Pinecrest Drive. The staff condition proposes two extensions of the roads. Seacrest requested to delete the staff condition because it will cut through all sorts of tree masses. With the covenants and the Comprehensive Plan saying this is supposed to be unique, we should not have to do an urban type network in this area. Most importantly, fire protection is the issue. Our streets get too long. Back in October, we handed out a letter from the Fire Department in support, “..... they have agreed to limit parking to only one side of the street. This solution to my concerns is acceptable to the large lots and separation between structures”. Seacrest believes that the Fire Dept. supports this present design.

Seacrest requested to delete Condition #1.1.14, which requires that So. 68th Street be extended north through the area to Stevens Ridge Road. The Southfork Homeowners Association submitted a letter in October requesting that 68th Street not be extended. This applicant does not want 68th Street to go through. It is not needed. The Fire Dept. states, “...we also discussed a possible cul-de-sac to redo 68th Street. Fire Dept. has no objection to this concept.”

Seacrest requested to add Condition#1.1.18 to deal with the Fairchild property:

“Revise the preliminary plat and legal description to remove any properties owned by Zane and Ethel Fairchild. Add a T-turn around on the south end of the South 68th Street stub located southwest of Stevens Ridge Road on Lot 70 I.T. located in the Northeast Quarter of Section 26, Township 9 North, Range 7 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska. Revise the lot configuration of Lots 17 through 23, inclusively and circulation access thereto to the South 68th Street Circle, the T-turn around on the south end of the South 68th Street or to Stevens Ridge Road to the satisfaction of Public Works & Utilities Department and the Planning Department.”

This applicant will agree that if Fairchild does not want to be part of the plat, they will not force him. This applicant has supported the Fairchild preliminary plat with an extended care facility. That facility has not proved viable and Fairchild's representatives have indicated that he would like to do office, although his property is shown in the Comprehensive Plan as residential. Removing the Fairchild property causes access problems to the acreage lots. Staff is asking us to give up access to 70th Street, which would get us access. Now they are telling us to delay this thing for 8 weeks when that was one of the issues in October. We tried to work with Fairchild; we then asked staff to call a meeting to help the relationship and staff chose not to call that meeting; Rierden did help us facilitate a meeting with the Fairchilds and we could not agree with regard to access so Fairchild does not want to be included in this plat. The access point that Fairchild wants will encourage him to come in for office zoning. Staff is supporting the access at Pheasant Run instead of Hickory Crest Point, and for those reasons we have not worked out an agreement with Fairchild. Meanwhile, where is our access? We knew this was an issue in October and now because Fairchild would not agree, staff wants eight weeks to keep working on it.

Seacrest purported that the issue is whether 68th Street should go through. Or should we be putting T turnarounds or cul-de-sacs and dead-end both directions of 68th Street? This applicant does not want to extend 68th Street.

Rierden gave a request in October that this developer give the Hickory Crest access. Seacrest stated that this developer is not in favor of that for several reasons: 1) staff does not want the Hickory Crest access. There will be a lot of turn movements at the 70th & Old Cheney Road major intersection and the Hickory Crest access is too close to that intersection; 2) the Hickory Crest access point is at the crest of the hill and there is poor sight distance; 3) Hickory Crest is not desirable because it will encourage cut-through traffic into the neighborhood; and 4) this developer does not want to be assisting Fairchild's effort to make it easier to rezone his property contrary to the Comprehensive Plan.

The other amendments to the conditions of approval (add Condition #8 and #9, and delete Condition #3) have to do with block lengths.

Seacrest requested that the Commission vote on this application and give direction on the motions to amend. He does not know if his clients should be pretending 68th Street should go through without some direction from the Planning Commission. We are chasing our tail here. We need some direction and this application has already been deferred four months.

Carlson inquired whether the covenants will create 1-acre parcels to prohibit further subdivision. Seacrest concurred. They roll over every five years. It is not one-acre, it's average one-acre because they encourage clustering. It does not absolutely forbid further

subdivision down the road, but it would require amending the covenants and it takes a 2/3rds vote to kill the covenants.

Carlson then referred to the Hickory Crest access and the rezoning potential. What about higher density residential? Seacrest would encourage Fairfield to go single family, urban residential, quality duplex. When you go from acreages to office on a corner that wasn't planned, it is not in anybody's interest.

Carlson then asked whether assurance of R-3 Residential would allay the concerns about cut-through traffic. Seacrest has more confidence that they will not amend the covenants than he does a future Council that will not rezone this property.

Bayer has not heard anyone come in and try to change the Southeast Lincoln/Hwy 2 Subarea Plan proposal for that corner to anything other than Urban Residential. We are beginning to support subarea plans. He asked Seacrest if he has been told that they want office there. Seacrest stated that he has been in a meeting with representatives of Fairchild showing an office design and asking for support.

2. Warren Johnson, 6801 Hickory Crest Road, immediately north of this proposed property (the northwest corner of 70th & Old Cheney), testified in support. He has lived there for 36 years and has witnessed the development of this area. The Hickory Crest Addition property owners met and are enthusiastic about this application. They think it is a unique and superb way to convert these 5-acre parcels into a lower density, yet still not a high density area for traffic control. The Hickory Crest Addition property owners are opposed to the Hickory Crest access. If you start to let traffic cross that close to 70th Street, there will be accidents. He suggested a traffic light, but without a light it will not work. Why do we have to butcher up these little communities trying to cut through the entire way? We've got four lanes on Old Cheney; four lanes on 70th; four lanes on Hwy 2 to the south. The communities that are there are there because of the kind of development that is proposed. Here is a chance to do something to control traffic.

In addition, Johnson stated that the Hickory Crest neighborhood is very much against any commercial development on the Fairchild property. We saw a plan that showed 55 parking spaces. What will that do to the traffic?

3. DeLoyd Larsen, President of the **Edenton Homeowners Association**, submitted a prepared statement by the Edenton Homeowners Association Board of Directors in favor. The Edenton Homeowners Assn. consists of 72 townhouses and 150 single family homes in the area of 70th Street, south of Glynoaks Drive, north of Old Cheney Road. The Edenton Homeowners Association has voted to approve the Hawkswood Estates plan, including the proposed Old Cheney Road access at the intersection across from Pheasant Run Lane, rather than access across from Hickory Crest. The Association also supports 68th Street ending as a cul-de-sac in this development. The Edenton Board is strongly

opposed to any commercial development of the Fairchild property in the area of South 70th and Old Cheney Road.

4. Ernest Henry, 5600 Pheasant Run Lane, testified in support of the plan to put the access on Pheasant Run Lane. He is opposed to any commercial on 70th & Old Cheney.

5. Art Zygielbaum, 6601 Pinecrest, testified in support and submitted letters in support from the **Southfork Homeowners Association** and the **Edenton South Homeowners Association**. He applauded the efforts of the developer to involve the neighbors very early on in the planning stages.

The Southfork Homeowners Association supports the plan, specifically for 68th Street to be made a cul-de-sac. They believe the rest of the development will blend in well with the adjacent neighborhoods. Southfork is opposed to any commercial development on the Fairchild property.

The Edenton South Homeowners Association supports this development, particularly the plan to have their rural route road run from Stevens Ridge Road and outlet at Pheasant Run. They are also strongly opposed to commercial development of the Fairchild tract.

Zygielbaum is a member of Comprehensive Plan Committee and he worked on the Beal Slough Master Plan. He came to Lincoln for the quality of life and the expectations of that quality of life. The citizens have a right to maintenance of the expectations of the area into which they move. He supports the modified R-1 zoning that is proposed in Hawkswood Estates and they will probably do the same thing for Sheldon Heights. Zygielbaum is opposed to anything other than a cul-de-sac for Pinecrest and for 68th Street. There is adequate access for the low density housing. There is an expectation, there is a reason we bought our property and there is a reason we live there, and he looks to the city to help support maintaining the quality of life he has come to expect. He is also opposed to any commercial development of the Fairchild tract.

In response to a question by Carlson concerning establishment of future easements if the properties are further subdivided, Zygielbaum stated that he is arguing for the cul-de-sac for the low density because it does not violate the safety of the people involved and will maintain what they now have.

6. Jack Lynch of Olsson Associates appeared to address the Fairchild property in this plat. Stevens Ridge Road was designed over a year ago to accommodate the properties to the south and those two slivers of Fairchild property were always intended to be added to those properties to the south. Whenever we design anywhere in this community we are asked to show how properties adjoining us will be accommodated by access. We are using a preliminary plat of record now to show access to the property to the south. Those

two 5-acre parcels to the south currently have access along a sliver of land and are now forced to come up into the Fairchild Estates and out that access point. Without these parcels in this plat, those two parcels have absolutely no access. He cannot believe the staff will leave two parcels without access. The only access they have now is through the Fairchild property.

Steward asked Lynch why they didn't incorporate the private roadway right-of-way in the design that would have resulted in no slivers. In other words, why is this not a straight going into a curve that is 50-100' further to the south? Lynch responded that according to the city design standards, the access point located for the Fairchild property is across the street from Stevens Ridge Road, which the design of 70th wanted to accommodate. We cannot get down into the property quick enough with the city design standards. We could have gotten a little further to the south; however, this is a preliminary plat that we don't control. If they would like to shove that road further to the south, we could accommodate that. Right now those two parcels have no access if the Fairchilds don't belong to this preliminary plat.

7. Mike Rierden appeared on behalf of the **Fairchilds** in support. This is a good proposal that is well-planned; however, his client desires to have the connection at Hickory Crest. It was his recollection that city staff was recommending that connection some time ago. It is the city's policy to align streets the best they can from one side to the other. He believes that staff might be soft on their proposal as far as where that connection should be and they would probably say it could be at either location. The concern about use of the Fairchild name on this plat was voiced as early as November of last year. That issue has been on the table and the Fairchilds have made it clear that they do not want to be part of this plat. The question is whether you can be part of one plat (Fairchild Estates was approved in 1999) and then be a part of another plat? The Fairchilds are not opposed to this development.

As far as any office use on the Fairfield tract, Rierden acknowledged that his clients have received the message that that would not be favored. They had simply shown a conceptual plan to Seacrest and his clients some time ago and as far he knows there is no serious proposal coming forward showing office, but rather more likely the existing R-3 or back to the assisted living.

Schwinn commented that the Fairchild preliminary plat is water over the dam. So, there are two houses on the Fairchild property that are already platted as lots. Rierden agreed. Schwinn then noted that when Old Cheney is rebuilt, the house furthest on the east side will only have a right-in and right-out to their property unless Stevens Ridge Road is built.

Steward inquired how long the Fairchilds have owned the property. Rierden guessed 40 years. It has been in the family for a long, long time, and certainly during the time when the original acreage plats were created. Steward asked Rierden whether it is conceivable

that there is any chance for collaboration between these property owners left? This is an acreage issue. This is an issue that no one expected when they originally purchased the property. Yet, to get the most out of the property, both economic and quality of life, it seems there has to be some mechanism of negotiation that something better can come out of it in a win-win situation if there is more cooperation. Rierden agreed. He has grown very frustrated with this matter and he would like to take a shot at that, and that would not be for the purpose of delaying this project. The Fairchilds would like to get this thing resolved. Steward further commented that this is an important intersection and it is an important residential lifestyle. It is very precious in both economic and aesthetic terms and he would like to see if they can't explore some other alternatives.

There was no testimony in opposition.

Staff questions

Steward questioned whether staff is optimistic that a more effective relationship between these property owners can be worked out to the benefit of both with the requested delay. Jennifer Dam of Planning staff stated that she has not been the staff person involved in the review process on this plat. However, she is willing to commit the Planning staff to work with both parties to try to reach a solution.

Schwinn observed that this corner (Fairchild property) has been approved, so he assumes that where Stevens Ridge Road is shown is where it is going to be built. Our only problem is the two slivers of Fairchild land that are currently in "no man's land". Dam clarified that she did look up the Fairchild Estates preliminary plat. The parcel adjacent to 70th Street is shown as an outlot with a note attached to the triangle at the intersection of 68th & Stevens Ridge Road that indicates that that parcel would be either dedicated as r.o.w. or attached to a lot to the south at some point in the future. The owner of that property has indicated that they don't want to be a part of this plat. Dennis Bartels of Public Works clarified that Fairchild Estates is just a preliminary plat and those outlots are not created at this point in time. Fairchild could come back and revise his preliminary plat however he wants. We have no ability to force him to final plat.

Schwinn asked Bartels about the signalization of the intersection at Hickory Crest. Bartels stated that it is probably closer to 70th Street than Public Works would like. When the city approved Hickory Crest to the north, it was closer to 70th than desired but it was approved

there and it is anticipated that it would be a four-way intersection. Thus, when the Fairchild plat came in, it implied that that was where the location was going to be for the access to 70th Street. When this plat came in, it showed the access to Old Cheney. We can make either location work. It would be desirable to have another signal.

Carlson asked whether Stevens Ridge Road at 70th would be signalized. Bartels did not think there were any plans to do so; that is where the median opening is; the access is located there now; there is a street that extends on east and the street return and turn lanes are in there for future extension to the west at that location. Carlson pondered that if this were residential, what about people wanting to move north on South 70th? He thinks that would be a difficult maneuver. Bartels suggested that as traffic picks up on 70th a signal could be warranted at that location.

In the spirit of compromise, Steward made a motion to defer for four weeks, until March 21, 2001, seconded by Duvall. Steward does not believe that it is acceptable for the Planning Commission to be put into a position of taking speculative action on behalf of a conflict of strategy and direction that needs to be worked out at staff and property owner level. In the best interests of the Comprehensive Plan, he does not believe there is any alternative but to take time for some negotiations to take place.

Motion to defer, with continued public hearing and administrative action on March 21, 2001, carried 7-0: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer voting 'yes'; Hunter and Newman absent.

COMPREHENSIVE PLAN AMENDMENT NO. 94-52;
ANNEXATION NO. 00001;
CHANGE OF ZONE NO. 3248
FROM I-2 INDUSTRIAL PARK TO
B-2 PLANNED NEIGHBORHOOD BUSINESS, H-4 GENERAL
COMMERCIAL AND R-3 RESIDENTIAL;
SPECIAL PERMIT NO. 1833,
ASHLEY HEIGHTS COMMUNITY UNIT PLAN;
and
PRELIMINARY PLAT NO. 00005,
ASHLEY HEIGHTS,
ON PROPERTY GENERALLY LOCATED
AT N.W. 48TH STREET AND W. ADAMS STREET.
REOPENED PUBLIC HEARING
BEFORE PLANNING COMMISSION:

February 21, 2001

Members present: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer; Hunter and Newman absent.

Planning staff recommendation: Approval of the Comprehensive Plan Amendment; conditional approval of the Annexation; approval of the Change of Zone; and conditional approval of the Community Unit Plan and Preliminary Plat.

Proponents

1. **Mark Hunzeker** appeared on behalf of **M&S Construction**, the developer of Ashley Heights. This application is for the rezoning of the property from I-1 to H-4, to B-2 and to R-3, as shown on the map. They spent a considerable amount of time over the past couple of months meeting with the neighborhood association, the industrial neighbor to the north (R.E. Meyer) and various city staff, including Urban Development Director, Marc Wullshleger, who organized and mediated the meetings. Everyone involved made a really good effort to come to a fair resolution to serve the developer's interests, the neighborhood interests and the concerns of R.E. Meyer.

Hunzeker explained that the short form version of the compromise is that the parcel in yellow on the map will remain zoned I-1. It has been agreed that that parcel will be sold to the R.E. Meyer Company to provide them with some additional land for future expansion. The previous version of this plat showed a street that connected from Huntington to W. Adams Street. That connection is no longer in place through this plat. There still exists a right-of-way, the future of which may come up for discussion in the future but it is not connecting through to West Huntington, which was one of R.E. Meyer's concerns. Hunzeker pointed to the proposed B-2 zoning, and stated that the relocated

drainageway will be brought further to the south along the north edge as now defined so not to push the drainageway up against the R.E. Meyer property. The upshot is that we end up with a slightly more rectangular residential development, slightly more separation from the residential to the R.E. Meyer property, and a slightly larger area for the commercial. There will be temporary access for the residential development that will come over a paved and graveled road to provide construction access and secondary emergency access into the subdivision. Some of the property will not be developed until there is a second emergency access.

Hunzeker then addressed the conditions of approval. Condition #1.2.20 on the preliminary plat talks about Lot 54, Block 8, being relabeled as an outlot and adding the note that, "This is a non-buildable, non-useable outlot until such time that it is combined with a parcel that has frontage and access through an administrative subdivision." Hunzeker does not disagree with this condition until it gets to the requirement for an administrative plat. He asked that the language, "through an administrative plat" be deleted from this condition. It had been agreed that this developer would be able to combine that parcel with the R.E. Meyer Company tract without an administrative subdivision. They will agree to relabel it as an outlot.

Condition #1.2.21 on the preliminary plat requires a public access easement through Lot 53, Block 8, to the outlot to the north. That would mean a public access easement through the commercial parcel to the outlot until merged with a lot with frontage and access. Hunzeker does not believe this is necessary. They requested waiver of the frontage and access for that particular parcel. With that waiver, the access easement is not required. It will have access to W. Adams via the R.E. Meyer parcel. Hunzeker requested that Condition #1.2.21 be deleted.

Condition #3.2.3.1 on the preliminary plat states that the City will subsidize, "...The cost above that of an 8" sewer line for the 15" sewer line shown upstream from Manhole 32." Hunzeker requested that Condition #3.2.3.1 read, "The cost above that of an 8" sewer line for the 15" sewer line shown upstream starting 600' north of the plat running south." The city would participate in the partial cost of that sewer because this developer is oversizing in order to provide for sewer to the area to the south.

Hunzeker requested to add a Condition #3.2.3.2 to the preliminary plat, "The cost above that of a 6" water line through the plat."

2. Charlie Humble appeared on behalf of **R.E. Meyer, L.L.C.**, in support. There was a long process involved in coming to an agreement. He acknowledged several people who worked long and hard to help achieve the compromise: Marc Wullschleger of Urban Development; Jennifer Dam of the Planning Department; Dennis Bartels of Public Works; Rick Peo, City Law Department; and Jeff Schwebke and Karen Griffin for the Arnold Heights Neighborhood Association. R.E. Meyer has very deep concerns about locating

residential in such close proximity to the industrial, preferring, of course, to be surrounded by other industrial uses. Realizing that was not going to happen, Humble believes the compromises, particularly in relation to the ability to purchase the area to the south of R.E. Meyer, is important for protection of future growth; the elimination of the access point to N.W. 45th is important; and other adjustments will make a more compatible type of use to the south of R.E. Meyer and the surrounding area.

Humble agreed with the proposed amendments to the conditions of approval. He also seconded Hunzeker's comments in relation to allowing R.E. Meyer to purchase the strip to the south without going through an administrative plat.

3. Jeff Schwebke, 4230 N.W. 54th Street, testified in support. He believes the revisions to this plat are improvements. The negative vote by the Planning Commission on the original application compelled us to realize that this was truly an opportunity for an advantage to our community, so we became more involved. He is grateful that Lincoln has the foresight to hear from the residents of the community. Her expressed appreciation for the efforts of all parties involved in the compromise meetings. This revision represents a true compromise. Arnold Heights Neighborhood Association took part in this process. They continue to discuss this issue in the neighborhood and have resounding support. More than 100 support letters and emails have been mailed to the City Council. The five subdivisions in the area are in complete support of this project.

4. Vincent Ortega, homeowner at 2424 N.W. 50th since July, 1980, in Olympic Heights, located directly west of the proposed Ashley Heights, testified in support. The northwest Lincoln community welcomes this development because it is a step in the right direction to get the necessary rooftops to bring the retail and service businesses. He welcomes this development because of the additional families that will become his neighbors and their children will help increase the declining elementary school enrollment. Instead of busing to middle school, hopefully they will be able to attend a school closer to home. The residents also have a vision for a new high school. A yes vote is a vote for positive growth in northwest Lincoln and to unite this area of town.

There was no testimony in opposition.

Dennis Bartels of Public Works agreed with the proposed amendments concerning the sewer and water subsidies.

As far as requiring the administrative subdivision, Rick Peo of the City Law Department stated that the question is how do we combine the two lots if Lot 54, Block 8, is designated as an outlot? He is not sure it can be done without an administrative final plat.

Response by the Applicant

Upon further discussion between Hunzeker and Peo, it was agreed that Condition #1.2.20 could read "...until such time that it is legally combined with a parcel that has frontage and access." And it was agreed that Condition #1.2.21 could be deleted.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 94-52

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 21, 2001

Duvall moved approval, seconded by Schwinn and carried 7-0: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer voting 'yes'; Hunter and Newman absent.

ANNEXATION NO. 00001

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 21, 2001

Schwinn moved to approve the Planning staff recommendation of conditional approval, seconded by Taylor and carried 7-0: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer voting 'yes'; Hunter and Newman absent.

CHANGE OF ZONE NO. 3248

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 21, 2001

Schwinn moved approval, seconded by Taylor and carried 7-0: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer voting 'yes'; Hunter and Newman absent.

SPECIAL PERMIT NO. 1833,

ASHLEY HEIGHTS COMMUNITY UNIT PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 21, 2001

Schwinn moved to approve the Planning staff recommendation of conditional approval, seconded by Taylor and carried 7-0: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer voting 'yes'; Hunter and Newman absent.

PRELIMINARY PLAT NO. 00005

ASHLEY HEIGHTS

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 21, 2001

Schwinn moved to approve the Planning staff recommendation of conditional approval, with the amendments to the conditions as requested by the applicant and agreed upon with the staff, seconded by Krieser.

Carlson expressed appreciation for the work that has been done on this project.

Motion for conditional approval, with amendments, carried 7-0: Krieser, Duvall, Carlson, Steward, Taylor, Schwinn and Bayer voting 'yes'; Hunter and Newman absent.

There being no further business, the meeting was adjourned at 3:40 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on March 7, 2001.

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